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The Commonwealth of Massachusetts
Executive Office of Public Safety and Security
Fire Safety Commission

Automatic Sprinkler Appeals Board

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CHAIRMAN

RODERICK J. FRASER, JR.
VICE CHAIRMAN

Docket # 2011-11
320 Washington Street
Easton, Massachusetts

AUTOMATIC SPRINKLER APPEALS BOARD DECISION

A) Statutory and Regulatory Framework

This is an administrative hearing held in accordance with Massachusetts General Laws, Chapter 30A; Chapter 148, section 26G and Chapter 6, section 201, to determine whether to affirm an Order of the Easton Fire & Rescue Department requiring Stonehill College (hereinafter referred to as the "Appellant") to install automatic sprinklers in a tent structure proposed to be erected on the Appellant's property located at 320 Washington Street, Easton, MA.

B) Procedural History

By written notice received by the Appellant on August 10, 2011, the Easton Fire & Rescue Department issued an Order of Notice to the Appellant informing them of the provisions of M.G.L. c. 148, s. 26G, and the Department's determination to require the installation of automatic sprinklers in a tent structure that Appellant is planning to erect on Appellant's campus, located at 320 Washington Street, Easton, MA. The Appellant filed an appeal of said Order with this Board on August 26, 2011. The Board held a hearing on this matter on September 14, 2011, at the Department of Fire Services, Stow, Massachusetts.

Appearing on behalf of the Appellant was Kevin Hastings, Consulting Engineer; Steven Medeiros, Associate/Project Manager, BKM Architects, Inc.; Craig Binney, Assoc. Vice President for Finance and Operations, Stonehill College; and Paul Mulroney, Cetrulo & Capone, Outside Counsel for Stonehill College. Appearing on behalf of the Easton Fire & Rescue Department was Chief Thomas F. Stone, and Captain Jeffrey Webster.

Present for the Board were: Maurice M. Pilette, Chairman; Roderick J. Fraser, Jr., Vice Chair; John J. Mahan; Alexander MacLeod; Peter E. Gibbons; Aime DeNault; and George Duhamel. Steven P. Rourke, Esquire, was the Attorney for the Board.

C) Issue(s) to be Decided

Whether the Board should affirm, reverse or modify the determination of the Easton Fire & Rescue

Department requiring sprinklers in the Appellant's proposed tent, in accordance with the provisions of M.G.L. c.148 § 26G?

D) Evidence Received

1. Application for Appeal filed by Appellant
2. Letter and Photographs in support of Appeal from Appellant's Architect
3. Order of Notice of the Easton Fire & Rescue Department
4. Architect Plans (items 4A-4F)
 - 4A. Materials Plan – Science Quadrangle
 - 4B. Layout Plan, Plaza Enlargement – Science Quadrangle
 - 4C. Layout Plan, Tent Enlargement – Science Quadrangle
 - 4D. Proposed Tent Layout 1
 - 4E. Proposed Tent Layout 2
 - 4F. Proposed Tent Layout 3
5. California Dept. of Forestry and Fire Protection – Office of the State Fire Marshal – Registered Flame Resist Product; Duraskin (FA-53001), 25m Dome roof cover (pgs 1-5)
6. Notice of Hearing to Appellant
7. Notice of Hearing to Easton Fire & Rescue Department
8. Copies of two Memoranda that accompany Hearing Notices
9. Photographs submitted by Appellant (items 1-6)
10. Submissions from the Easton Fire & Rescue Department (items 1-8)
11. Building Permit No. 12213 (dated July 2, 2009)

E) Subsidiary Findings of Fact

- 1) By written notice received by the Appellant on August 10, 2011, the Easton Fire & Rescue Department issued an Order of Notice to the Appellant informing them of the provisions of M.G.L. c. 148, s. 26G, and the Department's determination to require the installation of automatic sprinklers in a tent structure that Appellant is planning to erect on its campus located at 320 Washington Street, Easton, MA. The Appellant filed an appeal of said Order with this Board on August 26, 2011. The Board held a hearing on this matter on September 14, 2011, at the Department of Fire Services, Stow, Massachusetts.
- 2) Representatives of Appellant testified that the proposed structure at issue consists of a tent structure measuring approximately 16,000 s.f. in floor area. The structure would exist on a temporary basis during the warmer weather months, May through October, but not more than 180 days within a calendar year. It would be used to host various events, such as college orientation, outdoor classes, receptions, graduation and church services. The tent would be designed to allow different interior space layouts for such events such as classroom space, presentation space or assembly, depending on the need. The Appellant's representatives testified that in the past tent structures have been erected at the campus. There is a tent structure consisting of approximately 4,000 s.f. of floor area on the subject location. In the past,

larger tents, consisting of up to 16,000 s.f have been erected for graduation ceremonies, including the use of such tent for one day this past year.

- 3) The Appellant indicated that in 2009, the Town issued a permit to construct footings to accommodate the future erection of the proposed tent structure.
- 4) Appellant's representative indicated that the proposed tent structure would consist of metal framing covered with a flame retardant fabric that meets current fire safety standards. The proposed tent, which at its highest point would be approximately 26 ft, will feature lighting powered by electric connections located outside the tent. The structure would not be connected to other campus buildings/structures. Planned egress for the structure will consist of at least four large entrances. However, the representatives for the Appellant indicated that the structures side panels can be modified to provide for more points of egress if desired.
- 5) The Appellant's representatives stated that they contacted several sprinkler companies for cost estimates for sprinkler installation. The sprinkler installers indicated that such tent structures are generally not required to be sprinklered due to the temporary nature of such structures. They also told the representatives that there is no established technical installation standard for the method and manner of sprinklers in tent structures and that such installation is complicated by structural limitations and lack of adequate support to support the weight of the sprinkler system, particularly a wet sprinkler system. The Appellants expressed concerns about complications created by the need to repeatedly install and dismantle a system on a yearly basis.
- 6) The Appellant's representative concluded that a sprinkler system is not required for such temporary structures under the provisions of the current version of the State Building Code, 780 CMR. They indicated that said Code considers such structures temporary if erected for less than 180 days per calendar year. The representatives referenced several recent instances involving tent structures erected throughout the state in excess of 7,500 s.f. apparently without the need to install a sprinkler system. However, it was noted that such occurrences involved structures that were erected for periods of time significantly less 180 days.
- 7) In support of the position of the Town of Easton Fire & Rescue Department, Chief Stone testified that the tent structure, consists of over 7,500 s.f of floor area and such a structure appears to be subject to the provisions of c. 148, s. 26G, thus requiring a sprinkler system. He indicated that according to the M.G.L. c. 148, s. 1 definition, a structure includes a tent.
- 8) Chief Stone indicated that the proposed tent location lies between several buildings and that the erection of the large tent structure in proximity to other structures could impede full access by emergency apparatus in the event of a fire or emergency in this area. The area where the planned tent will be constructed was designated a staging area in the event of an emergency.
- 9) Both parties indicated that open flames and cooking activities are not allowed within the tent. They also testified that a fire department fire watch is required for large events involving assembly and that one or more crowd managers are also present during such events.

F) Ultimate Findings of Fact and Conclusions of Law

- 1) The relevant provisions of M.G.L. c. 148, s. 26G, state, (in pertinent part): “Every building or structure, including any additions or major alterations thereto, which totals, in the aggregate, more than 7,500 gross square feet in floor area shall be protected throughout with an adequate system of automatic sprinklers in accordance with the provisions of the state building code.” This law reflects amendments to the statute enacted by Chapter 508 of the Acts and Resolves of 2008. The provisions apply to “the construction of buildings, structures or additions ***or major modifications*** (emphasis added) thereto, which total, in the aggregate, more than 7,500 gross square feet *permitted after January 1, 2010*”. (Sec. 6, Chapter 508 of the Acts of 2008).
- 2) The Appellant does not contest a finding that the proposed structure consists of over 7,500 s.f. in floor area and that a tent is a structure as that term is used in MGL c. 148, s. 26G.
- 3) The sprinkler requirements of M.G.L. c. 148, s. 26G are separate and distinct from the sprinkler requirements of 780 CMR, the State Building Code. However, this Board, although not bound by said code, may nevertheless refer to said Code for guidance in rendering determinations, particularly in cases involving unique circumstances and/or characteristics. The Board notes that said code considers, as temporary, buildings or structures that are erected for a period 180 days within a twelve-month period. In general the building code exempts such structures from sprinkler requirements. The Board also finds that such tent structures present unique challenges relating to sprinkler installation. Said structures generally lack necessary structural capability or integrity to support the weight of a sprinkler system. Additionally, it appears that there are limited technical standards for the method and manner of installation of such temporary tent structures.

G) Decision of the Automatic Sprinkler Appeals Board

Based upon the evidence and testimony presented at the hearing, the Board hereby **reverses** the determination of the Easton Fire & Rescue Department to install sprinklers throughout the proposed structure in accordance with the requirements of M.G.L. c. 148, § 26G. However, the following conditions do apply:

- The Appellant may not allow any open flame or heat source at any time within the structure;
- The tent must feature a notification system and manual fire alarm system that contains alarms and horns approved by the Fire Department;
- The Appellant shall provide documentation to the Easton Fire & Rescue Department that all tent fabric meets the current Massachusetts flammability standard for tents (NFPA 701 (2004 Edition)); and
- The tent continues to be used only on a temporary basis (less than 180 days per calendar year).

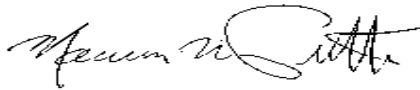
H) Vote of the Board

Maurice M. Pilette, Chairman	In Favor
Roderick J. Fraser, Jr., Vice Chair	In Favor
John J. Mahan	In Favor
Alexander MacLeod	In Favor
Peter E. Gibbons	In Favor
Aime DeNault	In Favor
George Duhamel	In Favor

I) Right of Appeal

You are hereby advised you have the right to appeal this decision, in whole or in part, within thirty (30) days from the date of receipt of this order, pursuant to section 14 of chapter 30A of the General Laws.

SO ORDERED,



Maurice Pilette, PE, Chairman

Dated: November 15, 2011

A COPY OF THIS DECISION AND ORDER WAS FORWARDED BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED TO:

Thomas V. Flynn, Clerk and General Counsel
Stonehill College
320 Washington Street
Easton, Massachusetts 02357

Chief Thomas F. Stone
Easton Fire & Rescue Department
413 Bay Road
South Easton, Massachusetts 02375